

SCHENGEN AREA VISA ISSUES- DEMANDS

THE DILEMMA OF EVER-EXPANDING SCHENGEN AREA AND FIXED PERIOD OF STAY

- While Schengen covers an area of 1,204,000 km² which consisted of 6 countries in the year 1995; today, it covers an area of 4,312,000 km² which consists of 26 countries. This area will expand 406,000 km² more as Bulgaria, Romania and Croatia join.
- While new countries' being added into Schengen area is not a limitation because of the 90 days limit, for a person who would like to go to a country only as a tourist; issues about period of stay have started to be experienced for driver visas, who transit countries due to their job therefore work has become impracticable.

CONSTANT TRAVELLERS WHO ARE TREATED AS TOURISTS: TRUCK DRIVERS

- Most of the International Drivers who have transported hundreds of times to the EU for 5-10-15, maybe 20 years; never tried to stay on EU territories, and still perform their job. Even though there is not a slight doubt for carrying freight to Schengen area and back to Turkey; 22 different documents are demanded from a driver that has been travelling for 10 years, at every single visa application.
- International Drivers are experts that received special training, comply with ADR/AETR conventions, have passed psycho-technical tests, are registered to Ministry of Transport, Maritime and Communications, carry international trade goods and have been performing their jobs for a long time.
- The drivers end the service, which they start in Turkey, in Europe; and end the service, which they start in Europe, in Turkey. They are not associated with European labour market.
- International Drivers are a small group consists of approximately 25,000 people transporting to EU countries. Because of many training/certification requirements and spending most of their time away from their family; new drivers' entry into the sector is very slow, and there is a problem for finding new drivers in our country.
- Working as a Truck Driver by oneself is a life style, and not a single driver has left his vehicle and taken refuge in any country up to date.

RESTRICTING THE MOVEMENT OF TRUCK DRIVERS AND ITS DAMAGE ON EU CUSTOMS UNION PROCESS

Turkey has the right of free movement of goods according to the Customs Union Agreement in which Turkey is a party with EU. Free movement of goods; is closely related to free movement of the vehicle and driver that constitute an inseparable whole with the goods. The restrictions that are imposed on drivers damage healthy functioning of Customs Union process. EU-Turkey Customs Union Evaluation Report, published by the World Bank, has confirmed that the issues in obtaining a visa and restrictions on period of stay damage the functioning of Customs Union.

Drivers are the actors that play a very important role in Turkey-Europe economy. 50% of Turkey's exportation to EU is done by EU-origin companies established in Turkey. 29% of this exportation belongs to German Origin firms alone; 10% of it belongs to only Italian Origin firms.

Drivers, who carry the export commodities that have been produced in Turkey to EU countries, also carry the export commodities of EU countries to Turkey and to the countries in the region. Turkey imports from EU 1.5 times more than it exports to EU. Therefore, treating these drivers like tourists while giving them visas, and restricting their periods of movement in Schengen area are against the ground rules of economy.

TURKISH (CITIZEN) TRUCK DRIVERS ARE EVALUATED AS "SERVICE PROVIDERS" IN THEORY HOWEVER VISA PROCUREMENT CONDITION CONTINUES IN PRACTICE!

EU border authorities were first informed in 2009 with the guideline document issued by EU, under the title of "**Guidelines on the Movement of Turkish Nationals Crossing the External Borders of EU Member States in order to Provide Services within the EU**". Information was given about Turkish citizens' entry and exit procedures into and out of the borders of EU Member States, with the mentioned document and "**Practical Handbook for Border Guards (Schengen Handbook)**" which was issued as "Commission Recommendation" on 14 December 2012 by EU Commission after the revisions that were made, and distributed to border authorities of EU countries.

In the related document, it was laid out that a notification had been required to be made within the scope of the decision of Court of Justice of the European Communities, dated 19 February 2009, regarding the cases of Mehmet Soysal and Ibrahim Savatli. *Aforementioned court decision indicates that; "Turkish citizens that reside in Turkey and travel to a Member State in order to provide service on behalf of an undertaking established in Turkey, do not have the obligation to have a visa to enter the territory of the Member State in question provided that this Member State did not apply visa on the date when the Additional Protocol, which was signed on 23 November 1970, of the Joint Agreement dated 12 September 1963 between EEC and Turkey, entered into force for the aforementioned Member State."*

In the Schengen Handbook, in which detailed information is given regarding entry and exit of Turkish citizens in/out of EU countries, explanations have been made under the title of "Limited Exemption for Visa Obligation". According to this, while the member states that can be entered without a visa; are only Germany, Netherlands and Denmark; a Turkish citizen that wishes to enter any of the mentioned three countries through the territories of one or more Member States, is required to have a visa in order to pass the territories of other member states in transit.

Within this scope, it is understood that Turkish Truck drivers (citizens), who are acknowledged as "service providers" by the related member states (Germany, the Netherlands and Denmark), can only provide service when they travel by plane and/or ship because of member states that do not permit transit pass without a visa. However Truck vehicles, which provide international movement of goods, are inseparable parts of Truck drivers and they have to provide service on land route.

Consequently, while transportations, which are done on land route in order to "provide service" so that international trade with the countries of European Union can be continued, can only be done with truck vehicles and drivers; the visa demanded for TRUCK drivers is a non-tariff barrier brought to "Truck Vehicles" and "Freight" at the same time.

OUR CURRENT ISSUES

TREATMENT OF DRIVERS AS TOURISTS AND RESTRICTION ON PERIOD OF STAY

International Road Transport sector faces big issues and loss of time and cost a great extent in visa process. In order to transport import and export goods; the drivers performing in the sector prepare 22 different documents for every single visa application, besides the invitation that is demanded to be prepared for them, pay high visa fee and intermediary prices. All these implementations make delivery of freight in due time impossible.

As Turkey's exportation's being carried out mainly from the Marmara region; while vehicles complete a travel to Europe in 15-18 days, they spend only 2-3 days in Turkey. Because of the restriction on period of stay; a driver, who has ended his 90-day period of stay in the 5th month of his 6-month visa, have to wait at his home for the date when he will have a new visa, sometimes for 1 month, sometimes even longer. This violation of human rights, which restricts freedom of labour, has no benefit for anyone.

TAKING THE PERIOD OF STAY IN THE PAST VISA PERIOD INTO ACCOUNT TOO IN PERIOD CALCULATION WITH THE "NEW RULE" (SCHENGEN CALCULATOR)

With the new Schengen calculation system that started in October in the year 2013, a driver, who has stayed in Schengen Area for 90 days with his 6-month visa by abiding by the rule, cannot enter Schengen Area with his 6-month visa that he got for the new period, on the grounds that "He stayed for 90 days with his past visa".

Although each new visa is an independent administrative decision; drivers, who abode by the rule in the previous period, are punished, and getting a new visa for the new period has no meaning.

As a result of this implementation, the driver, whose period of stay ends in the 5th month of a 6-month visa, and who waits for the new visa period, sitting at home for 1 month, cannot enter Schengen area anymore, even with his new visa, due to the "Retroactive" 90/180 calculation. More than 150 Turkish drivers have been rejected from gates in the last several months.

SCHENGEN VISA APPLICATION DOCUMENTS DEMANDED FROM TRUCK DRIVERS

Every Turkish Truck driver has to prepare 22 items of standard documents when he makes a request for a visa from any Schengen country in order to "provide service". There are also other (extra) documents that Embassies and/or Consulates located in Turkey demand in addition to the mentioned 22 documents. Truck drivers have to prepare/submit the mentioned documents again for every application.

Moreover, there are other implementations/documents demanded in visa applications by different diplomatic representatives of the same country, in Turkey.

DIFFERENT IMPLEMENTATIONS OF DIFFERENT CONSULATES OF THE SAME COUNTRY IN VISA PROCEDURES

Different implementations are carried out by Embassies/Consulates of the same country in business visa applications that are made for drivers and businessmen from the related countries' Embassies and Consulates located in Turkey.

CONCLUSION

Schengen Visa need of our approximately 25,000 drivers that carry our international trade to the European Union, should be separated from businessman visa process due to its urgency and importance, and should be addressed with priority.

1. Ensuring the evaluation of truck drivers as different from tourists or businessmen due to their significant roles for the EU Economy and being a group that does not carry any risk, in visa interviews which include the Readmission agreement signed between Turkey and EU,
2. Ensuring the abolishment of the 90/180 rule for drivers, who travel within Schengen area, on the grounds that Schengen area has expanded geographically by more than doubling,
3. Ensuring the evaluation of International Drivers with priority, within the scope of "Giving multiple entry visas more easily to those who travel frequently in Schengen area and act in accordance with the rules" which was issued by the EU Commission in April 2014,
4. Excluding drivers who have had a visa for the first time, ensuring the giving of visas without a restriction on period of stay to drivers, who are registered travellers that have made multiple entries into Schengen area, on the condition that they leave Schengen area with certain minimum periods,
5. Making reduction in visa fees as in the agreements that EU has signed with other countries is of importance.